

**AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 24TH DAY OF MAY 2005, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.**

**A. ROLL CALL**

Michael J. Brown, Chairman, **Powhatan** District  
Jay T. Harrison, Sr., Vice Chairman, Berkeley **District**  
Bruce C. **Goodson**, Roberts District  
John J. **McGlennon**, Jamestown District  
M. Anderson Bradshaw, Stonehouse District

Sanford B. Wanner, County Administrator  
Leo P. Rogers, County Attorney

**B. MOMENT OF SILENCE**

Mr. Brown requested the Board and citizens observe a moment of silence.

**C. PLEDGE OF ALLEGIANCE**

Christiana Cintron, an eleventh-grade student at Jamestown High School, led the Board and citizens in the Pledge of Allegiance.

**D. HIGHWAY MATTERS**

Mr. Jim Brewer, Virginia Department of **Transportation** (VDOT) Residency Administrator, stated that landscape planting will be taking place in the County in the next 30 to 60 days; stated that the intersection improvements at Lightfoot Road (Route 646) and Mooretown Road (Route 603) involving the installation of traffic signals will be completed by August 15; stated that the Williamsburg Area headquarters for VDOT has reopened and additional staff are being hired; stated that VDOT has put out open bids for interstate maintenance work, which will free up VDOT staff to address primary, secondary, and subdivision road roadwork; and stated that repair work on Interstate 64 is underway.

Mr. Brewer, stated that on May 20 the thud right-turn lane on Route 199 had been opened and the intersection of Route 199 and Jamestown Road (Route 31) is fully open; stated that the pedestrian-crossing signalization is being reviewed and may be adjusted; stated that a presentation on the proposed improvements to Croaker Road (Route 607) is being developed and will be shared with property owners along the road to get **permission** to perform the roadway improvement work; stated that the speed study results have not been reported yet and additional sites have been added for speed studies; stated that the **traffic** signalization to be installed near Williamsburg West and the Regency at **Longhill** apartments is halted while VDOT works with County staff and the landowners to establish an easement to permit the location of a **traffic** signalization light pole on the property; and stated that a drainage watch list has been presented to the Board and the list continues to grow.

Mr. Harrison inquired if an overlay of the entire Frond Lane (Route 1467) will be performed.

Mr. Brewer stated that it is anticipated that Frond Lane will be repaved; however, it will not occur this year.

Mr. **Goodson** requested that VDOT look at the signalization for traffic exiting Quarterpath Road and Mounts Bay Road (Route 639) at the intersection with Route 199 to eliminate confusion as to who has the right-of-way for turning onto or crossing Route 199.

Mr. **McGlennon** thanked VDOT for the Route 199 and **Jamestown** Road (Route 31) intersection work that has resulted in smoother traffic flow.

Mr. Bradshaw thanked Mr. Brewer for visiting the site of erosion problems on Richmond Road (Route 60) and requested that VDOT look at the drainage problem at the bottom **of the** curve on Diascund Reservoir Road (Route 603) just after the intersection of Richmond Road (Route 60) where standing water develops **after** it rains.

Mr. Brown thanked VDOT for the responses to pothole concerns and requested that VDOT look at the east-bound lane on the curve of **Longhill** Road (Route 612) where the pavement is deteriorating and the deterioration is now encroaching into the traffic travel lanes.

## **E. PRESENTATION**

### **1. Middle Peninsula Juvenile Detention Commission - Merrimac Center - Annual Report**

Ms. Joanne Smith, Director for the Merrimac Center, provided an overview of the Center's annual report, the membership of the Commission, and the services offered; commented that the County usage has diminished from being a leading user to fourth place in usage of the Center, and it is anticipated that County usage will diminish next year as well.

Mr. Bradshaw requested information about the GED program service at the Center,

Ms. Smith stated that six individuals graduated **from** the GED program this year.

Mr. Bradshaw requested information about video conferencing for after-hours intake officers.

Ms. Smith stated that the pilot program to reduce the amount of overtime hours for intake officers and to expedite processing of youths has been introduced in the form of video conferencing. Video conferencing permits law enforcement **officers**, while they are on the road, to get the intake paperwork done. The law enforcement officer, through video conferencing, can have the youth and **his/her** parents or guardian make a statement to the intake officer at the Merrimac Center and the intake officer reaches a decision on whether to detain or not. This allows the officer to be on the road in a matter of minutes.

Mr. **McGlennon** stated he is impressed with the services and programs which are geared towards getting the youth back on track.

Ms. Smith stated that the Center would be happy to have tours of youth groups, clubs, organizations, or citizens in their facility.

**F. PUBLIC COMMENT**

1. Mr. Orvil Methen, 113 Thorpe's Parish, stated concern that payment was made in connection with grinder pump installations that covered the fee to provide sewage **treatment** and he now reads in the newspaper that the James City Service Authority (JCSA) will be taxing the next owner **of the** property without representation and will raise that fee without hearing the voice from **future** owners; and stated that sewage should be treated the same across the board and the JCSA should not penalize grinder pump owners.

2. Mr. Ed Oyer, 139 Indian Circle, stated that during the Route 60 relocation project, a side discussion was held by citizens regarding military retirement benefits, the associated fees with military retirement, and out-of-service providers; and emphasized the need for the County to index the real estate **tax**.

**G. CONSENT CALENDAR**

Mr. Goodson made a motion to adopt the items on the consent **calendar** including the amended resolution for the Hurricane Isabel Disaster Recovery Project - Community Development Block Grant Application.

On a roll call vote, the vote was: AYE: Harrison, **Goodson, McGlennon**, Bradshaw, Brown (5).  
NAY: **(0)**.

1. Advance **Hiring** of FY 2006 Police **Recruits**

**RESOLUTION**

**ADVANCE HIRING OF FY 2006 POLICE RECRUITS**

WHEREAS, the James City County Board of Supervisors adopted the FY 2006 County Budget on April 26, 2005, that provides for four new Police Recruits; and

WHEREAS, the police training at the Hampton Roads Criminal Justice Training Academy begins immediately after the start of FY 2006 on July 5, 2005; and

WHEREAS, it is necessary for the Police Recruits to receive several days of training provided by the Police and Human Resource Departments prior to the start of the academy; and

WHEREAS, the hiring of the new Police Recruits is needed in advance of the start of FY 2006; and

WHEREAS, the Police Department will have sufficient funds in its FY 2005 budget to pay the salaries and fringe benefits of the four Police Recruits for a period of two weeks.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the advance hiring of four new Police Recruits on June 16, 2005.

2. Award of Construction Contract - Louise Lane-south

**RESOLUTION**

**AWARD OF CONSTRUCTION CONTRACT - LOUISE LANE-SOUTH**

WHEREAS, Louise Lane-south is currently a dirt street; and

WHEREAS, bids have been received for construction of Louise Lane-south; and

WHEREAS, staff reviewed all bids and determined that Toano Contractors, **Inc.**, is the lowest responsive and responsible bidder and qualified to complete the project; and

WHEREAS, funds are available to construct Louise Lane-south to the **Virginia Department of Transportation** (VDOT) standards for inclusion in the VDOT Secondary Road System.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to execute a contract with Toano Contractors, Inc., for this work in the amount of \$175,205.

3. Hurricane Isabel Disaster **Recovery** Project - **Community** Development Block Grant Application

**RESOLUTION**

**HURRICANE ISABEL DISASTER RECOVERY PROJECT -**

**COMMUNITY DEVELOPMENT BLOCK GRANT APPLICATION**

WHEREAS, financial assistance is available to units of local **government** through the Commonwealth of Virginia Community Development Block Grant Program (VCDBG), 2005 Disaster Recovery Fund; and

WHEREAS, a press release has been published and a public meeting has been held regarding this application in compliance with VCDBG citizen participation requirements; and

WHEREAS, James City County wishes to apply for \$341,000 in VCDBG funds to be used to provide assistance to individuals whose homes incurred major damage as a result of Hurricane Isabel; and

WHEREAS, \$34,100 in local funds are allocated to the project; and

WHEREAS, the project is anticipated to benefit eleven households, six of which will be low- and **moderate**-income households by providing housing restoration, rehabilitation, replacement, and hazard mitigation assistance.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the County Administrator is authorized to file an application, including all understandings and assurances contained therein, with the Virginia Department of Housing and Community Development and to provide such additional information as may be required by the Department.

4. Revised Administrative Plan for the Section 8 Housing Choice Voucher Program

**RESOLUTION**

**REVISED ADMINISTRATIVE PLAN FOR THE**

**SECTION 8 HOUSING CHOICE VOUCHER PROGRAM**

WHEREAS, the James City County Office of Housing and Community Development is the designated Public Housing Agency (PHA) authorized to operate the Section 8 Housing Choice Voucher Program within James City County; and

WHEREAS, a PHA which operates the Section 8 Housing Choice Voucher Program must adopt an Administrative Plan which states local policies on matters for which the PHA has discretion; and

WHEREAS, there have been substantial changes in Federal policies and regulations related to operation and funding of the Housing Choice Voucher Program since the initial Administrative Plan was adopted by the Board of Supervisors on June 25,2002; and

WHEREAS, the Office of Housing and Community Development has prepared a revised Administrative Plan and reviewed significant changes in local policies in the revised Administrative Plan with its Housing Choice Voucher Participant Advisory Board.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, approves the revised Administrative Plan for the Section 8 Housing Choice Voucher Program effective July 1,2005.

5. Appointment of Secretary/Treasurer for Williamsburg Area Transport Company

**RESOLUTION**

**APPOINTMENT OF SECRETARY/TREASURER FOR**

**WILLIAMSBURG AREA TRANSPORT COMPANY**

WHEREAS, the office of Secretary/Treasurer for the Williamsburg Area Transport (WAT) Company is vacant.

NOW, THEREFORE BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, appoints Mr. Doug Powell as Secretary/Treasurer for the Williamsburg Area Transport Company for the remainder of 2005.

6. Thomas Nelson Community College Board

**RESOLUTION**

**THOMAS NELSON COMMUNITY COLLEGE BOARD**

WHEREAS, Thomas Nelson Community College (TNCC) was established in 1967 to serve the cities of Hampton, **Newport** News, Williamsburg, and Poquoson, and the counties of James City and York; and

WHEREAS, a local college board was established, with members appointed by each of the localities to serve in an advisory capacity to **the** State Board of Community Colleges and the Community College's President; and

WHEREAS, the population growth over the last **15** years has changed the demographic distribution of the TNCC service area and the County has requested an expansion of the TNCC Board with an increase in representation by James City County and York County.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby appoints Mr. Joe A. **Gutierrez**, County Representative on the TNCC Board, to serve as James City County's representative on the **ad hoc** committee to review the TNCC Board's composition and allocation of the members among the member localities.

7. Hampton Roads Economic Development Alliance - Designee for 2005

**RESOLUTION**

**PENINSULA COUNCIL FOR WORKFORCE DEVELOPMENT - DESIGNEE FOR 2005**

WHEREAS, the Peninsula Alliance for Economic Development (PAED) and **the Hampton** Roads Economic Development Alliance (HREDA) have merged; and

WHEREAS, the Peninsula Council for Workforce Development is the successor organization serving the Peninsula; and

WHEREAS, the bylaws of the Peninsula Council for Workforce Development authorize each Governmental Member to appoint by resolution a designee of the Member jurisdictions to cast a vote.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors **of James** City County, Virginia, does hereby appoint Jay T. Harrison, Sr., as its Governmental Member designee for **2005**.

**H. BOARD CONSIDERATIONS**

1. Case Nos. Z-16-04/SUP-35-04/MP-12-04. **Burlington Woods** (deferred from May 10, 2005)

Mr. Christopher Johnson, Senior Planner, stated that Michael Baust of Rickmond + Bury, on behalf of Michael Smith of Tidewater Partners Property & Development LLC, submitted an application to rezone **17.32**

acres at 3931 **Longhill** Road from R-8, Rural Residential, to R-2, General Residential, with proffers. The site is further identified as Parcel No. 1-20 on James City County Real Estate Tax Map No. (33-3).

Staff found that with the submitted proffers, the proposal will not negatively impact surrounding property. Staff also found the proposal to be consistent with surrounding land uses and the Comprehensive Plan.

At its meeting on April 4, 2005, the Planning Commission recommended approval of the rezoning, special use permit, and master plan applications by a vote of 5 to 1.

Staff recommended the Board's approval of the applications and acceptance of the amended voluntary proffers that removed Item No. 12 referring to pump station improvements.

Mr. Bradshaw inquired if any revisions or changes have been made to the economic impact analysis and school expenses report.

Mr. Johnson stated that a revised fiscal impact study has not been submitted

Mr. **Goodson** made a motion to adopt the application resolutions with the amended page 10 of the voluntary proffers.

The Board members briefly stated their support or opposition to the proposal and the benefits and concerns associated with the proposal including adequacy of the cash proffers to offset the impact to public services.

On as roll call vote, the vote was: AYE: Harrison, **Goodson**, Brown (3). NAY: **McGlennon**, Bradshaw (2).

## **RESOLUTION**

### **CASE NO. SUP-35-04. BURLINGTON WOODS**

WHEREAS, the Board of Supervisors of James City County has adopted, by Ordinance, specific land uses that shall be subjected to a special use permit process; and

WHEREAS, Mr. Michael Baust of Rickmond + Bury has applied on **behalf of** Tidewater Partners Property & Development, LLC for a special use permit to allow a single-family subdivision with a maximum gross density of 1.5 units per acre in accordance with the provisions of Section 24-254 (c) of the Zoning Ordinance; and

WHEREAS, the property is identified as Parcel No. (1-20) on James City County Real Estate Tax Map No. (33-3); and

WHEREAS the Planning Commission of James City County, following its Public Hearing on April 4, 2005, recommended approval of Case No. SUP-35-04 by a vote of 5 to 1.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of **James** City County, Virginia, does hereby approve the issuance of Special Use Permit No. 35-04 as described herein with the following conditions:

1. If construction has not commenced on this project within thirty-six months from the issuance of a special use permit, the special use permit shall become void. Construction shall be defined as obtaining a land-disturbing permit and start of land-disturbing construction activities for the project.
2. A landscaping plan shall be approved by the Planning Director or his designee prior to final approval of any subdivision plat for the development. The owner shall provide enhanced landscaping for the area along the property frontage on **Longhill Road** and adjacent to any residential dwellings. Enhanced landscaping shall be defined as 133 percent of Zoning Ordinance landscape requirements.
3. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

**RESOLUTION**

**CASE NOS. 2-16-04 AND MP-12-04. BURLINGTON WOODS**

WHEREAS, in accordance with § 15.2-2204 of the Code of Virginia and Section 24-13 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners were notified, and a hearing was scheduled on Zoning and Master Plan Case Nos. 2-16-04 and **MP-12-04** for rezoning approximately 17.32 acres from R-8, Rural Residential, to R-2, General Residential, with proffers; and

WHEREAS, the Planning Commission of James City County, following its public Hearing on April 4, 2005, recommended approval of Case Nos. 2-16-04 and **MP-12-04**, by a vote of 5 to 1; and

WHEREAS, the property is identified as Parcel No. (1-20) on James City County Real Estate **Tax** Map No. (33-3).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of **James** City County, Virginia, does hereby approve Case Nos. 2-16-04 and MP-12-04 and accepts the voluntary proffers.

2. **Crossroads Community Youth Home**

Ms. Suzanne R. Mellen, Director of Budget and Accounting, stated that the Colonial Group Home Commission staffs and administers a variety of juvenile justice programs in the region and one of the core services is the Crossroads Community Youth Home. The structure the Crossroads Community Youth Home occupies was never intended to be a group home and is poorly designed for such purposes, and the facility is aged and has been deteriorating drastically, requiring continuous and expensive repairs.

The Commission has worked for several years to replace this facility with an appropriately designed and sized structure, and requested the Board adopt the resolution permitting the Commission and the Commission Administrator to proceed with details of a commitment to sell the existing facility, the interim financing, and the provisions of a land lease.

Mr. Harrison inquired if the proposed Crossroads Community Youth Home will be coed.

Ms. Mellen stated that it will be coed.

Mr. **McGlennon** made a motion to adopt the resolution.

On a roll call vote, the vote was: AYE: Harrison, **Goodson**, **McGlennon**, Bradshaw, Brown (5). NAY: (0).

## RESOLUTION

### CROSSROADS COMMUNITY YOUTH HOME

WHEREAS, the localities of York, James City, and Gloucester Counties and the City of **Williamsburg** have collaborated on programs for juvenile offenders in the 9th District since the early 1970s and formed the currently named Colonial Group Home Commission in 1986 and collectively **fund** a complete continuum of programs and services in partnership with the Commonwealth; and

WHEREAS, Crossroads Community Youth Home is a 12-bed residential facility for males ages 14-18 owned by the member jurisdictions of the Colonial Group Home Commission as tenants-in-common consisting of a small compound including a three-floor residence and small auxiliary buildings that provide office space and food service storage; and

WHEREAS, the facility was formerly a private residence and accordingly the design makes it very difficult to operate given the nature and challenges accompanying placement of today's youth and in addition to the facility design issues, the half-century-old structure requires constant, significant maintenance and repair, making it imperative that a replacement facility be constructed; and

WHEREAS, the General Assembly has excepted Crossroads specifically by name from the existing moratorium on construction of group homes and other residential structures for juveniles in order to facilitate the funding and construction of a new Crossroads Community Youth Home; and

WHEREAS, in order for the replacement project to proceed, in particular, in regard to the details of interim financing of a long-term land lease agreement and provisions for the sale of the **existing facility**, it is necessary for the member localities to authorize the Commission and the Commission Administrator to take the necessary steps.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby authorize the Colonial Group Home Commission and the Commission Administrator to take all steps necessary to arrange for the sale of the existing Crossroads Community Youth Home, the details of a long-term land lease as a site for a new facility, and for the necessary financing to construct that facility.

BE IT FURTHER RESOLVED that documents affecting the final sale **of the** property and the execution of the land lease must be approved by the James City County Board of Supervisors.

## I. PUBLIC COMMENT

1. Mr. Ed Oyer, 139 Indian Circle, inquired where the proceeds from the sale of the existing Crossroads Community Youth Home will go and inquired **if the** funds will be coming back to the jurisdictions or will it be used towards the costs associated with the new facility.

Ms. **Mellen** stated that the proceeds from the sale will be used to offset the cost **of the** new facility and reduce funding request to participants.

2. Ms. Amanda Howard, 3436 Old Stage Road, requested the Board's support to have the Old Stage Road speed limit reduced to 35 mph and to have "Watch for Children" signs installed along the road, and presented a petition **from** residents of and near Old Stage Road supporting the speed limit reduction.

Mr. Wanner stated that VDOT is conducting the **necessary** speed study on Old Stage Road.

3. Mr. Troy Howard, 3436 Old Stage Road, understands VDOT is conducting **a speed** limit study as is the County Police; however, the residents want the speed limit reduced to 35 mph, not just studied and request the County's assistance to get it done.

Mr. John T. P. Home, Manager of Development Management, stated that secondary roads are controlled by VDOT and while local government and citizens petition for roadway review and revision, the County does not have the authority to reduce speed limits on State owned/maintained road.

4. Ms. Susan Back, 3373 Old Stage Road, stated that she is the mother of Isabel, the child who lost her life to traffic on Old Stage Road; requested the Board take into consideration the citizens' request to reduce the speed limit on Old Stage Road; stated that there are three housing developments that have youth near Old Stage Road; and requested that the County support its citizens' request to protect the children **of the** community and get the speed limit reduced and signs up on Old Stage Road.

Mr. Brown and the members of Board stated that they appreciate the situation and will give the request due consideration.

## **J. REPORTS OF THE COUNTY ADMINISTRATOR**

Mr. Wanner stated that County citizens who subscribe to Cox Cable will receive a County TV-48 programming survey regarding the programming on Channel 48 with their next bill and requested that citizens return the survey that is self-addressed and postage paid.

Mr. Wanner recommended that the Board recess briefly for a JCSA Board of Directors meeting; then reconvene to go into Closed Session pursuant to Section 2.2-3711(A)(1) for the consideration of appointments to Boards and Commissions, and Section 2.2-3711(A)(1) to consider a personnel matter, and the evaluation of the County Attorney at the conclusion of the Board's meeting. The Board adjourned until 7 p.m. on June 14.

## **K. BOARD REQUESTS AND DIRECTIVES**

Mr. **McGlennon** requested additional information regarding a proposed by-right development that will construct water facilities that will be shared, and requested the alternatives available to the Board, the flexibility or restraints within the current regulations; and then the Board can provide options or voice satisfaction with the current regulations to staff for guidance through the development review.

Mr. Brown requested additional information from staff regarding the unintended consequences of saying yes to such a development proposal.

Mr. Brown recessed the Board at **7:58 p.m.** for a meeting of the JCSA Board of Directors.

Mr. Brown reconvened the Board at **8:17 p.m.**

L. CLOSED SESSION

Mr. Harrison made a motion to go into Closed Session pursuant to Section 2.2-3711(A)(1) for the consideration of appointments to Boards and Commissions, and Section 2.2-3711(A)(1) to consider a personnel matter, and the evaluation of the County Attorney.

On a roll call vote, the vote was: AYE: Harrison, **Goodson**, McGlennon, Bradshaw, Brown (5). NAY: (0).

Mr. Brown adjourned the Board into Closed Session at **8:18 p.m.**

Mr. Brown reconvened the Board into Open Session at **8:45 p.m.**

Mr. McGlennon made a motion to adopt the Closed Session resolution.

On a roll call vote, the vote was: AYE: Harrison, **Goodson**, McGlennon, Bradshaw, Brown (5). NAY: (0).

RESOLUTION

CERTIFICATION OF CLOSED MEETING

WHEREAS, the Board of Supervisors of James City County, Virginia, (Board) has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711 of the Code of Virginia requires a certification by the Board that such closed meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby certifies that, to the best of each member's knowledge: i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies; and, (ii) only such public business matters were heard, discussed, or considered by the Board as were identified in the motion, Section 2.2-3711(A)(1), to consider **personnel** matters, the appointment of individuals to County boards **and/or** commissions; Section 2.2-3711(A)(1), to consider a personnel matter, the evaluation of the County Attorney; and Section 2.2-3711(A)(7), to consult with legal counsel and staff members (or consultant) pertaining to actual or probable litigation.

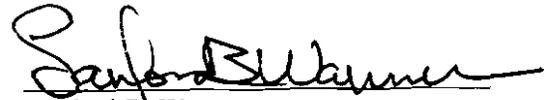
Mr. McGlennon made a motion to appoint Mr. Tom Tingle to a four-year term on the Economic Development Authority, term to expire on May 31, 2009; to reappoint Mr. Mark Riialdi to a four-year term on the Economic Development Authority, term to expire May 31, 2009; to reappoint Ms. Katherine Preston to a three-year term on the Historic Triangle Bicycle Advisory Committee, term to expire on June 30, 2009; and to reappoint Mr. Tom Belden, Mr. Richard Jones, Ms. Louise Menges, Ms. Margaret Mondul, and Ms. Charlene Talcott to a three-year term on the Water Conservation Committee, terms to expire May 31, 2008.

**M. ADJOURNMENT**

Mr. Harrison made a motion to adjourn

On a roll call vote, the vote was: **AYE:** Harrison, Goodson, McGlennon, Bradshaw, Brown (5). **NAY:**  
(0).

At 8:50 p.m., Mr. Brown adjourned the Board until 7 p.m. on June 14, 2005



Sanford B. Wanner  
Clerk to the Board

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PROFFERS

THESE PROFFERS are made this 29<sup>th</sup> day of April, 2005 by TIDEWATER PARTNERS PROPERTY & DEVELOPMENT, LLC, a Virginia limited liability company (together with its successors in title and assigns, the "Owner").

RECITALS

A. Owner is the owner of a tract or parcel of land located in James City County, Virginia, with an address of 3931 Longhill Road, Williamsburg, Virginia and being Tax Parcel 33-3-1-20 containing approximately 17.32, being more particularly described on Schedule A hereto (the "Property").

B. The Property is designated Low Density Residential on the County's Comprehensive Plan Land Use Map and is now zoned R-8. Owners have applied to rezone the Property from R-8 to R-2, General Residential District, with proffers.

C. Owners have submitted to the County a master plan entitled "Burlington Woods Master Plan" prepared by Bury + Partners - Virginia, Inc. dated December 23, 2004 (the "Master Plan") for the Property in accordance with the County Zoning Ordinance.

D. Owners desire to offer to the County certain conditions on the development of the Property not generally applicable to land zoned R-2.

NOW, THEREFORE, for and in consideration of the approval of the requested rezoning, and pursuant to Section 15.2-2298 of the

Code of Virginia, 1950, as amended, and the County Zoning Ordinance, Owners agree that they shall meet and comply with all of the following conditions in developing the Property. If the requested rezoning is not granted by the County, these Proffers shall be null and void.

#### CONDITIONS

1. **Master Plan.** The Property shall be developed generally in accordance with the Master Plan, with only minor changes thereto that the Development Review Committee determines do not change the basic concept or character of the development. There shall be a maximum of 26 lots on the Property.

2. **Owners Association.** There shall be organized an owner's association or associations (the "Association") in accordance with Virginia law in which all property owners in the development, by virtue of their property ownership, shall be members. The articles of incorporation, bylaws and restrictive covenants (together, the "Governing Documents") creating and governing each Association shall be submitted to and reviewed by the County Attorney for consistency with this Proffer. The Governing Documents shall require that each Association adopt an annual maintenance budget, which shall include a reserve for maintenance of stormwater management BMPs, recreation areas, sidewalks, and all other common areas (including open spaces) under the jurisdiction of each Association, shall require each

initial purchaser of a lot to make a capital contribution to the Association for reserves in an amount equal to one-sixth of the annual general assessment applicable to the lot (but no less than \$100.00) and shall require that the Association (i) assess all members for the maintenance of all properties owned or maintained by the Association and (ii) file liens on members' properties for non-payment of such assessments. The Governing Documents shall grant each Association the power to file liens on members' properties for the cost of remedying violations of, or otherwise enforcing, the Governing Documents. If there is more than one Association created for the Property the Associations shall enter into a costs sharing agreement allocating responsibility for maintenance and expenses for common areas described above between the Associations.

3. **Water Conservation.** (a) The Association shall be responsible for developing water conservation standards to be submitted to and approved by the James City Service Authority and subsequently for enforcing these standards. The standards shall address such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources. The standards

shall be approved by the James City Service Authority prior to final subdivision or site plan approval.

**4. Cash Contributions for Community Impacts.** (a) A contribution of \$1,061.00 for each dwelling unit on the Property shall be made to the James City Service Authority ("JCSA") in order to mitigate impacts on the County from the physical development and operation of the Property. The JCSA may use these funds for development of alternative water sources or any project related to improvements to the JCSA water system in the County's capital improvement plan, the need for which is generated in whole or in part by the physical development and operation of the Property.

(b) A contribution of \$484.75 for each dwelling unit on the Property shall be made to the County in order to mitigate impacts on the County from the physical development and operation of the Property. The County may use these funds for any project in the County's capital improvement plan, the need for which is generated in whole or in part by the physical development and operation of the Property, including, without limitation, for emergency services, off-site road improvements, library uses, and public use sites.

(c) A contribution of \$2,454.25 for each dwelling unit on the Property shall be made to the County in order to mitigate impacts on the County from the physical development and operation

of the Property. The County may use these funds for any project in the County's capital improvement plan, the need for which is generated in whole or in part by the physical development and operation of the Property, including, without limitation, for school uses.

(d) The contributions described above shall be payable for each dwelling unit on the Property at the time of final subdivision plat approval for such unit.

(e) The per unit contribution(s) paid in each year pursuant to this Section shall be adjusted annually beginning January 1, 2006 to reflect any increase or decrease for the preceding year in the Consumer Price Index, U.S. City Average, All Urban Consumers (CPI-U) All Items (1982-84 = 100) (the "CPI") prepared and reported monthly by the U.S. Bureau of Labor Statistics of the United States Department of Labor. In no event shall the per unit contribution be adjusted to a sum less than the amounts set forth in paragraphs (a) through (c) of this Section. The adjustment shall be made by multiplying the per unit contribution for the preceding year by a fraction, the numerator of which shall be the CPI as of December 1 in the year preceding the calendar year most currently expired, and the denominator of which shall be the CPI as of December 1 in the preceding year, In the event a substantial change is made in the method of establishing the CPI, then the per unit contribution shall be adjusted based upon the figure that would have resulted had no

change occurred in the manner of computing CPI. In the event that the CPI is not available, a reliable government or other independent publication evaluating information heretofore used in determining the CPI (approved in advance by the County Manager of Financial Management Services) shall be relied upon in establishing an inflationary factor for purposes of increasing the per unit contribution to approximate the rate of annual inflation in the County.

**5. Longhill Road Community Character Buffer.** There shall be a 150 foot buffer along the Longhill Road frontage of the Property generally as shown on the Master Plan. The buffer shall be exclusive of any lots or units. There shall be installed landscaping in the buffer of at least 125% of ordinance requirements, unless otherwise approved by the Director of Planning, pursuant to a landscape plan approved by the Director of Planning. With the prior approval of the Development Review Committee, trails, sidewalks, bike lanes, utilities, lighting, entrance features and signs may be located in the buffer. Dead, diseased and dying trees or shrubbery, invasive or poisonous plants, windfalls and deadfalls may be removed from the buffer area. The 35 foot perimeter buffer adjacent to Tax Parcel 3130100019 (Wallace parcel) and Tax Parcel 3130100020A (New Zion Baptist Church parcel) shall be landscaped in accordance with a landscape plan approved by the Director of Planning.

6. **Streetscape Guidelines.** The Owner shall provide and install streetscape improvements in accordance with the applicable provisions of the County's Streetscape Guidelines policy. The streetscape improvements shall be shown on development plans for that portion of the Property and submitted to the Director of Planning for approval during the development plan approval process.

7. **Recreation.** (a) Owner shall provide a tot lot, with play equipment, and parkland of approximately one acre prior to issuance of the first certificate of occupancy for a dwelling unit on the Property.

(b) There shall be provided on the Property other recreational facilities, if necessary, such that the overall recreational facilities on the Property meet the standards set forth in the County's Recreation Master Plan or in lieu of such additional facilities Owner shall make cash contributions to the County in amount determined pursuant to the County's Recreation Master Plan (with the amount of such cash contributions being determined by escalating the amounts set forth in the Recreation Master Plan from 1993 dollars to dollars for the year the contributions are made using the formula in Section 4(e)) or some combination thereof. All cash contributions proffered by this Proffer 7 shall be used by the County for recreation capital improvements or for any other project in the County's capital

improvement plan, the need for which is generated in whole or in part by the physical development and operation of the Property. The exact locations of the facilities proffered hereby and the equipment to be provided at such facilities shall be subject to the approval of the Development Review Committee.

8. Archaeology. A Phase I Archaeological Study for the entire Property shall be submitted to the Director of Planning for review and approval prior to land disturbance. A treatment plan shall be submitted and approved by the Director of Planning for all sites in the Phase I study that are recommended for a Phase II evaluation and/or identified as eligible for inclusion on the National Register of Historic Places. If a Phase II study is undertaken, such a study shall be approved by the Director of Planning and a treatment plan for said sites shall be submitted to, and approved by, the Director of Planning for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III study. If in the Phase III study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the Director of Planning prior to land disturbance within the study areas. All Phase I,

Phase II, and Phase III studies shall meet the Virginia Department of Historic Resources' Guidelines for Preparing Archaeological Resource Management Reports and the Secretary of the Interior's Standards and Guidelines for Archaeological Documentation, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's Professional Qualification Standards. All approved treatment plans shall be incorporated into the plan of development for the Property and the clearing, grading or construction activities thereon.

9. **Sidewalks**. There shall be sidewalks five feet in width installed along one side of all streets within the Property generally as shown on the Master Plan. Owner shall either (i) install a sidewalk along the Longhill Road frontage of the Property or (ii) in lieu thereof, make a payment to the County for sidewalk improvements included in the County's capital improvements plan in an amount acceptable to the Director of Planning based on the estimated costs of construction of the sidewalk.

10. **Taper**. If required by the Virginia Department of Transportation, there shall be installed or bonded in form acceptable to the County Attorney prior to final subdivision plat

approval a 100 foot right turn taper from Longhill Road into the entrance to the Property.

**11. Environmental.** The Property is located within Subwatershed 204, Catchment 204-101-1 of the Powhatan Creek watershed. Pursuant to the County's Comprehensive Plan and the goals of the Powhatan Creek Watershed Management Plan, Owner shall incorporate on-site stormwater management strategies and on-lot practices to reduce stormwater run-off and pollutant loading into the stormwater management system for the Property as approved by the Director of Environmental Division. These practices shall include, but are not limited to, rain gardens, bio-retention cells and infiltration swales and shall compliment but not replace traditional stormwater management practices.

WITNESS the following signatures.

EXHIBIT A

All that certain piece or parcel of land situate in Berkeley Magisterial District, James City County, Virginia, containing 17.32 acres, more or less and being shown and designated as 20.4 acres "Theodore Wallace" on that certain plat entitled "Wallace - Taylor, Plat showing division of Property Situated near Centerville, Jamestown Magisterial District, James City County, Va." dated March 7, 1952, made by R. V. Carter, Certified Land Surveyor, recorded in the Clerk's Office of James City County along with a partition deed between Theodore Wallace and Pearl Wallace Taylor dated April 21, 1952, and recorded in the Clerk's Office May 6, 1952, in Deed Book 47, page 326. The said property is bounded on the North by State Highway No. 612, on the East by the property now or formerly of Elizabeth (Lizzie) Lee and New Zion Baptist Church, on the South by the property formerly owned by Siggarr Bradby and on the West by the property of Pearl Wallace Taylor and James Melvin Wallace and Betty W. Wallace. Being a part of Parcel B conveyed to Theodore Wallace and Lillian B. Wallace by deed dated April 21, 1952, recorded in the Clerk's Office of James City County, Virginia in Deed Book 47, page 328, SAVE AND EXCEPT a portion of the property containing 1.0796 acres which was conveyed to James Melvin Wallace and Betty W. Wallace by Deed dated January 9, 1970, from Theodore R. Wallace and Lillian B. Wallace, recorded in Deed Book 125, at page 39, LESS AND EXCEPT a portion of the property containing 0.99 acres, more or less, which was conveyed to New Zion Baptist Church by Deed dated September 8, 1997, from Thomas B. Wallace, recorded as instrument number 970016355, LESS AND EXCEPT a portion of the property containing 1.00 acres, more or less, which was conveyed to Geneva Wallace, James Jackson, Sr., Willie Brown, Elvin Jones, and Robert Kenneth Taylor, Sr., Trustees of the New Zion Baptist Church dated November 12, 2001, from Thomas B. Wallace, recorded as instrument number 010021684.

Together with all and singular the buildings and improvements thereon, the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining.

Subject, however, to all easements, conditions, and restrictions of record affecting said property.

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY

This document was admitted to record on 3 June 05  
AM/PM. The taxes imposed by Virginia Code

& t a S 58.1-801, 58.1-802 & 58.1-814 have been paid.

STATE TAX LOCAL TAX ADDITIONAL TAX

\$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_  
TESTE: BETSY B. WOOLRIDGE, CLERK

BY: Betsy B. Woolridge Clerk